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Case Number : 1-19-009891 Date of Report : 9/25/19 11:09
Occur From Date: 9/21/19 Occur To Date : 9/21/19
Day Of Week : SATURDAY Dept Class : INFORMATION REPORT
Case Status : Turned over to other Department
Case Status Dt : 9/25/19
Occurred at: : ALAMOGORDO CITY HALL, 1376 E NINTH ST
City : ALAMOGORDO, NM 883100000
Report Officer : JARRETT, KERRY
Supervisory Emp: KUNIHIO, DAVID 9/25/19
Clerical Entry : JARRETT, KERRY 9/25/19

***** V E H I C L E I N F O R M A T I O N # 1 *****

Case number : 1-19-009891
***** P E R S O N R E P O R T I N G I N F O - # 1 *****

Case Number : 1-19-009891 Last Name : TROUTT, JEFFERY D
Sex : FEMALE

***** N A R R A T I V E # 1 *****

ORIGINAL REPORT Reported By: JARRETT, KERRY B. 9/25/19
Reviewed By: KUNIHIO, DAVID Y. 9/25/19

On Wednesday, 09/25/19, I met with Mr. Jeffery Troutt who came to the Alamogordo Police Department to report some type of theft of mail and/or tampering with public records.

Mr. Troutt explained that he was recently employed by the City of Alamogordo as the Assistant City Attorney. He was subsequently terminated August 21, 2019.

The following letter authored by Mr. Troutt was sent (via USPS) to each City Commissioner, Judge Steve Lee and Police Chief Peete. The letters were sent from Tularosa, New Mexico on either the 23rd or 30th of August 2019. Mr. Troutt states he has reason to believe that his letters (8 pages) were either stolen or intercepted before reaching its intended addressee.

Mr. Troutt stated that he really wasn't expecting a reply from anyone but was thinking more of an acknowledgement of receipt. After a few weeks, he decided to follow up revealing his letters apparently weren't received.

Mr. Troutt said he has since spoken to several individuals who wished to remain anonymous at this time. Mr. Troutt learned from these individuals that the Commissioners never received his letter.

Mr. Troutt also stated that he telephoned the Municipal Court Office and inquired about the letter he had addressed to Municipal Judge Steve Lee. Mr. Troutt said he learned that Judge Lee never received his letter.

Mr. Troutt stated he suspected Petria, City of Alamogordo Human Resource Director Katie Josselyn, City of Alamogordo City Manager Brian Cesar or a combination of all three in colluding to not allow

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these letters to make it to the Commissioners and Judge who are all elected public officials. The letter describes his unfair treatment and dismissal by City Attorney Petria Bengoechea.

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Kim Torres, PHR, SHRM-CP Sr. Human Resources Generalist City of Alamogordo 1376 E. 9th St. Alamogordo, NM 88310

Dear Ms. Torres:

This constitutes the written portion of my exit interview, as well as a complaint of bullying that I request HR to investigate.

I took this job in order to have employment to be close enough to care for my mother, who has Alzheimer's, and was living alone after the death of my father. That is the reason I came here, and the reason I spent thousands of dollars relocating from Alaska to New Mexico. I worked as hard and as diligently as I could, as I was making fundamental changes to my life, and the stakes were high for me and people I loved. I found myself struggling, against a toxic combination of bullying, public denigration, and unreasonable restraints on my ability to do my job.

I write this, not to get my job back, but because there will be someone filling the job after me, and I do not want his or her life wrecked the way Petria has wrecked mine.

And, if you care to truly listen to me, I can tell you that I speak from a wealth of experience. I have spent multiple years supervising scores of lawyers I have supervised lawyers who supervise lawyers. I have supervised Federal General Counsel's, Federal Compliance investigators, state lawyers in New Mexico and Alaska, and worked closely with Federal Inspector Generals, Justice department litigators, and U.S. Assistant Attorneys General. Based on this experience, I can tell you in no uncertain terms that Petria is the worst legal manager I have encountered in over 30 years of law practice. Petria behaves ways that would never be tolerated in any professional setting where there is accountability for bad behavior. She bullies, she chastises publicly, she brings up mistakes repeatedly, tells people to do things and gets angry at them for doing them, and speaks openly about their confidential medical information. She badgers and bullies like a petulant child until she gets her way. Her idea of encouraging professional development is to send a link to a website. For example, when I had a DWI case coming up, she sent me a link on how to do a DWI prosecution. Much of it was not even relevant to how we do DWI's in municipal court, so I don't think she screened it very well.

Bullying:

Despite the City's policy against bullying, Petria regularly engages

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in bullying behavior it is her management style. The Employee manual states: "[The] City of Alamogordo prohibits any form of bullying. Bullying is an act of aggression causing embarrassment, pain, or discomfort to someone. It can take a number of forms including, but not limited to; physical, verbal, making gestures, or exclusion." This policy describes how Petria manages her subordinates. Petria has bullied me on numerous occasions. If she runs into a problem, she will often scream or email, "I want the answer to this on my desk in 15 minutes." I have been around enough to know that there is no reason for a 15 minute deadline, she is just seeking to instill fear. She also yells in public. She once chastised me loudly in her office with the door open over a mistake that costs the city about \$130. She did that in front of her supervisor.

She displayed the same behavior over a mistake I made in hiring a process server. Her voice was loud, her tone was mean, and she told me it was a serious mistake with far reaching consequences, and that we would be audited, which would cause, in her words, "a shitstorm". The door was open: everyone in the office could hear her. The amount involved \$65.

A few weeks later she again raised her voice while I was in the office. She repeated the two mistakes I had made, as well as a typographical error in a letter that was discovered and corrected before it went out. I stood in the doorway with my head bowed while Petria yelled within earshot of our secretary, paralegal, acting City Manager and his Administrative Assistant that I was making too many mistakes like the two letters, and the \$65 process server's fee and that I needed to stop making mistakes or this would not work out. Publicly threatening an employee's job over minor mistakes certainly serves to create an atmosphere designed to humiliate and embarrass the employee and that falls foursquare into the definition of bullying. She reminded me then and several other times and in public that I was a probationary employee and could be dismissed at any time.

The Employee Manual says this about the initial probationary period: "This is an opportunity for the City to evaluate the employee's performance. It also is an opportunity for the employee to decide whether he or she is happy being employed by the City." I am sure that you will agree with me that an employee's probationary status should never be used to intimidate an employee or make him or her feel less valued. Yet, that is exactly how Petria used my probationary status against me as a bullwhip, rather than a chance to learn and develop professionally.

Bullying as Excluding:

When I first became an employee, I started to attend Commission meetings so that I could get to know the community and be involved in it. At one point, after an 11 hour day in heat that I was not yet accustomed to, this 62 year old man briefly nodded off. Of course it was involuntary. This is normally something that is embarrassing, and

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polite people know that no one does something like that on purpose, and it is usually laughed off as a way of diffusing the embarrassment. When I arrived at work the next day, Petria loudly told me it was unprofessional for me to nod off and that it reflected terribly on our office, on her personally, and that many of the Commissioners were angry. Then she said, "I don't know why you come to Commission meetings anyway". I offered to apologize to the Commissioners who were offended, and was told not to. The message I received was to stay away from Commission meetings, and stay away from the Commissioners. I believe that I only talked to Mayor Boss and Commissioner Sikes after that, and only after they initiated the conversations. Petria gave me the impression the Commissioners did not like me, thought I was an embarrassment, and that if I talked with them, it would get back to Petria and I would be fired. The fear with which her bullying behavior was designed to fill me worked all too well, just as she planned. If I questioned her word, or asked anyone to confirm what she told me, I was sure to be fired, because I was only a probationary employee. When I was in court conducting prosecutions, I was, naturally nervous. Petria attended most of my court appearances, and would give out instructions in a loud whisper while I was talking to the judge. This left me not just feeling nervous conducting my first municipal court prosecutions, but flustered and uncertain about what to do. In addition, I looked at my cell phone for some information I had stored on it related to that case.

Afterwards, Petria told me that the police were angry that I looked at my cell phone, that the Judge would have yelled at me and thrown me out of court had he seen me. She said to not ask him about his policy. Once again don't dare question what she says, or risk being fired. This left me with the impression that the police were angry with me, and Petria told me several other times that the police were mad about one thing or another (such as taking too long to find a file during court), and that they did not have confidence in me.

I realized that if I spoke to any other the policemen I had worked with, I would be fired, so I avoided interacting with the police except to tell them that a case had settled and they would not be needed in court. While she did let me work out of the police station for a couple of weeks, I tried, but found it difficult, to interact with the police because I believed based on what Petria told me that many or most did not like me, and were angry at me. Petria also told me that the Judge was angry and frustrated with me and that he was "sick of carrying" me, and that I'd better be careful because he was close to yelling at me in court and throwing me out. Of course, I knew I could not talk to the judge about whether I was doing something that was bothering him so that I could meet his expectations. If it got back to Petria, I would be fired.

Petria also told me that the court staff was angry with me because

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from time to time I would ask them about a point of procedure, how the judge wants particular things done. I have practiced in several different jurisdictions at the state and federal level and I knew that different judges like certain things done certain ways, so I would ask in advance, rather than make a mistake. I have appeared in court on dozens of occasions and I have learned that all good lawyers do that find out how a particular court functions and tailor your conduct to meet the judge's (and the court staff's) expectations. I was told to not talk with the court staff, and I knew that if I did so, I would be fired.

During trial preparation, I had two cases where the defendant did not have enough Breath Alcohol Content to support a prosecution. Because of their behavior, I thought perhaps they were on drugs, and that a blood test would have been appropriate. I was working that morning out of the police station, so I called the State head of Toxicology (I worked with toxicologists frequently when I was Senior Legal Counsel to the Chairman of the Consumer Product Safety Commission in the development of regulations, and was comfortable with their professional jargon and somewhat knowledgeable about their profession.) I asked what drugs were regularly tested for during a blood draw. I also asked if there were other drugs such as beta blockers, blood thinners, diabetes medications, or statins that could react badly with alcohol, and asked if they could be identified in a blood test if there were a reason (such as an admission or a prescription bottle) to test for the substance. I had a cordial conversation with him and in ten minutes learned a lot that could be helpful in my job.

When I told Petria about my conversation, she became angry and told me never to talk to anyone at the State, but only to her. Again, the door was open, her voice was loud, and there were other people in our cloistered office area.

When I confided some of these frustrations to one whom I thought was a friend, I was chastised the next day for criticizing Petria. Petria said this is MY City Attorney's office, and I won't tolerate anyone criticizing me. Of course, the door was open I and I apologized profusely and never spoke to anyone about that sort of thing again. Competent managers are not afraid of and can handle constructive criticism.

Finally, Petria split up the departments we would each be responsible to advise. I told her I was going to go to lunch with each of the department heads and get to know them and what they do. I thought that would make me a better advisor. Petria ordered me not to go to lunch with them and to not talk with anyone in those departments until there was a problem. It seems to me that a 62 old man should be able go to lunch with whomever he pleases, and that knowing department heads and educating myself about what they do was part of my job.

I did not recognize it at first, but I do see this for what it was: a

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pattern of exclusionary behavior. Since Petria limited my interaction with other city and all state employees. My only basis to form an opinion as to my worth as an employee was defined by what she told me others thought about me. I believed that the Commissioners don't like me, the police don't like me, the Judge doesn't like me, and the court staff doesn't like me. I have no reason to believe otherwise, and was directed not to interact with them in any meaningful way. Towards the end of my tenure at the city, I limited my interaction with them because I felt I could trust no one, and I could talk to no one about what I was experiencing. I was alone. My hands and feet were tied, and my mouth was taped shut, then I was pushed into the deep end and was criticized for my difficulties swimming.

The only exception was conversations started by Mayor Boss or Commissioner Sikes, and conversations with Judge Lee. But even then, it was against the backdrop of Petria's portrayal of his opinion of me, so I didn't ask questions I wanted to ask, such as how can I do better, what am I doing that is wasting everyone's time, where am I falling short? I didn't do that, which a normal experienced attorney would, because I was afraid it would get back to Petria and I would be fired.

I had no recourse but to just take the bullying. Could I go to Petria's boss? Of course not. She did all this in his presence or within his earshot. Where was the recourse? The Commission? It was made pretty clear to me that the Commissioners thought poorly of me and I shouldn't be talking to them. So going to the Commission is a sure way of getting fired. Going to work became a misery, because I knew that even the slightest little mistake, or even a non-mistake -just something that bothered her, would become a public rebuke, and not just once, but many times and publicly. I slept 2 or 3 hours a night, dreading the next day. I loved what I did. It was worthwhile and fulfilling, but the work environment was toxic and demoralizing.

Management

A good rule of management is to rebuke in private and praise in public. (There are exceptions, but they do not apply here.). Petria chastises employees in the open, in a loud voice, where everyone can hear, not for the good of the team, but to humiliate and marginalize her target.. This creates a toxic environment. It marginalizes the employee in front of co-workers and subordinates. When done in front of the police or in court, it diminishes and marginalizes the attorney. This happens all of the time. Petria does it in front of her boss, who does nothing to correct her, so there is no recourse.

As far as praising in public, Petria never praises in public, or in private for that matter. For example, I spent weeks putting together 300 letters involving about 500 liens. It was conveyed to me that it was urgent to get them out, so I worked overtime, worked weekends, worked until my eyes were blurry drafting them. As far as I know, there were two mistakes, one involving an incorrect amount, an error

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which costs the city about \$135. It was my mistake. I was publicly scolded for it in front of the Acting City Manager. One had a place holder on templates I created that said SALUTATION instead of the person's name. That was caught before the letter went out but I was chastised several times for it. I was also chastised because I sent two letters to the same person involving two different liens. The woman had changed her name, and I was chastised for not knowing that. I was also chastised for mistakenly hiring a process server. I've been doing this all of my career, and I did not realize that under the city's rules, I needed a contract first. (In other jurisdictions, we took care of business first, and as long as the price was reasonable, we contracted with the process server during the course of execution of the contract. That is my best memory of how it was done.) But this is New Mexico, and we do things differently here. I missed that. It was my mistake. It cost \$65. I was rebuked loudly and openly multiple times for this error.

I was also asked to calculate how much money was brought in as a result of the letters I had drafted. My work brought in over \$25,000 in liens that would otherwise not have been paid. I received not one word of thanks for my efforts from anyone. I don't expect to be praised for every little thing, but if I'm going to be publicly scolded for costing the city \$135, an "attaboy" for bringing in \$25,000 would have been nice.

And, to vent a little, the Commission has had to release tens of thousands of dollars worth of liens because nobody did anything about them and the statute of limitations passed, rendering the liens uncollectible. That was before I got here, and brought in over \$25,000. I have seen lien foreclosure suits brought by the city dismissed because the case was neglected for so long that the court threw them out. Yet I'm the bad guy because I made a \$135 error. The lawyers who handled liens prior to this cost the city tens of thousands of dollars because of their neglect.

At the same time, I will admit that I was not here when this happened. It could be that the Commission decided not to pursue the matter(s). Then the professional and proper thing would be to dismiss the action. If, after all, nodding off during a Commission meeting is unprofessional and brings disgrace on the City Attorney's Office, how much more does having a case thrown out for neglecting to prosecute disgrace the office.

And, though I doubt anyone will believe me, I have substantial experience in legal management at high levels of government. Based on my experience, Petria is a good lawyer, but like many good lawyers, she is an incompetent manager of lawyers. She blames other people for her mistakes, has no ability to delegate authority, and uses other people's mistakes, real or manufactured, to cover her own inadequacies. She blames other people for her failures. And she uses bullying and fear to motivate employees. And she never praises

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employees, even when they put forth extra time and effort. All this serves to demoralize the people who work for her, creates a toxic and fearful environment.

And she attempts to control everything. That's a useful skill in a litigator, where detail is important. In a manager is slows everything down. And Petria attempted to control everything. This stemmed from a lack of perspective as to what is important and what is not important, a fatal flaw in a manager. As an example, hours were wasted discussing my \$65 error. That is hours of tax dollars wasted, hours of productive work that did not get done, and also resulted in demoralization and humiliation that sapped my morale and my productivity, like

Case in point: as I mentioned above, I brought in over \$25,000 to the city in past due liens, for which I received no thanks, and made a \$135 mistake for which I was publicly chastised multiple times. And I was chastised by Petria, the attorney who neglected foreclosure cases to the point where they were thrown out, and whose neglect required the City to release tens of thousands of dollars worth of liens because they were neglected.

In reference to liens our paralegal gave me a stack of documents indicating that the Otero County was foreclosing on certain properties we were in litigation over. I mistakenly thought our paralegal had given them to Petria first. On a hunch, I asked her a couple of weeks later if she had or was I assuming wrongly. I assumed wrongly. So I meekly told Petria about them. I wasn't particularly concerned because the City's lien survives the County's tax foreclosure. But in an abundance of caution, the decision was correctly made to pay the taxes on two of the properties that were in litigation to avoid having to sue again. The cost was about \$11,000 altogether. (County property taxes [ad valorem] are the only liens superior to the City's and must be paid whenever the City forecloses on a property.

Paying the taxes was inevitable because the County can foreclose on a property within 30 days. If the City forecloses on a lien, assuming it is diligent about prosecuting the matter, it will take no less than six months, perhaps a year depending on how aggressively the owner litigates the matter. And while it was not my fault that the City had to pay, it was my fault that it had to be done in a hurry. And, had the matters been pursued with the diligence that should have been brought to bear on the matters before I even arrived, the City would already have owned the properties.

Conclusion

I would not want my job back under these circumstances. It is a toxic environment that is daily misery for the people employed there, though I believe that they would be too afraid of retaliation to tell you that. The City Attorney's office is full of unnecessary stress, and a single person who rules it through fear, a raised voice, and bullying. The bad management not only means that it takes too long for things to

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get done, it also means that the City is at risk of liability because of the City Attorney's behavior, and the failure of the City to adequately supervise her.

I am not making an employment complaint at this moment. I loved the work, enjoyed the challenge, but the toxic environment has taken a toll on my health in ways I have never experienced before. I don't know if Alamogordo is a uniquely unfriendly place, or if I have suddenly, after 31 years of law practice, become an unprofessional and dislikable person. I just know that over my life I have experienced a lot of workplace stress, but not like this. And at a point in my career where my lifetime of experience should matter, I find myself shoved aside, marginalized, ignored and not allowed to speak to the people I need to speak to do my job. This has never happened to me before in a professional setting and it is very disturbing.

What I do know is that after writing this, I have to tell my mother that I failed her and my father, and I'm not sure I can keep her in her home where she has lived for more than 20 years. I cannot begin to tell you how much that hurts. And if you think of me with the contempt Petria tells me you do, you don't care.

In the event that you do care, please save the next person the misery I have suffered and I'm sure that my predecessor(s) no doubt suffered. You have serious management problems in your City Attorney's office. If you do not correct them they will only get worse, and the City will be vulnerable to an employment action based upon the bullying of its City Attorney. I would strongly recommend that you review the following New York Times article on the pitfalls of failing to rein in bullying bosses, <https://www.workplacebullying.org/nytimes-3/>

Very Truly Yours,

Jeffery Troutt cc: Mayor Richard A. Boss Deputy Mayor Jason Baldwin
Commissioner Nadia Sikes Commissioner Susan L. Payne Commissioner Josh Rardon
Commissioner Al Hernandez Commissioner Dusty Wright Chief Brian Pete

That concludes the letter written by Complainant Jeffery Troutt. This initial report to be forwarded to Captain D. Kunihiro. ..

A copy of the letter is attached to this report's facesheet.

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* * * * * END OF REPORT * * * * *